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HOUSE BILL 2293

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State of Washington

57th Legislature

2002 Regular Session

By Representatives Buck, Pearson, Schoesler, Benson, Sump, Delvin, Ahern, Ballasiotes, Mulliken, Campbell, Holmquist, Anderson, Alexander, Armstrong, Lisk, D. Schmidt, Mielke, Boldt, Edwards, Pflug and Esser

Read first time 01/14/2002. Referred to Committee on Select Committee on Community Security.

1 AN ACT Relating to enacting the antiterrorism crime act of 2002;  
2 amending RCW 10.95.020, 9.94A.535, and 13.40.0357; reenacting and  
3 amending RCW 9.94A.030, 9.94A.515, and 42.17.310; adding a new chapter  
4 to Title 9A RCW; repealing RCW 9.61.160, 9.61.170, 9.61.180, 70.74.270,  
5 70.74.272, 70.74.275, 70.74.280, and 70.74.285; prescribing penalties;  
6 and declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** SHORT TITLE. This act may be known and  
9 cited as the antiterrorism crime act of 2002.

10 NEW SECTION. **Sec. 2.** LEGISLATIVE FINDINGS AND INTENT. The  
11 legislature finds that acts of terrorism such as those that struck the  
12 World Trade Center and the Pentagon and other such horrific acts  
13 committed both here and around the world are intended to demoralize and  
14 destabilize a society. Such evil is designed to kill and maim and  
15 strike terror into the hearts of innocent people and destroy public or  
16 private property. Such brutality and evil cannot be tolerated in any  
17 civilized society.

1       The legislature also finds that one of the most essential services  
2 government provides is public safety and one of its highest priorities  
3 is ensuring the security of its citizens. It is critical that we have  
4 laws that are strong enough that ensure that terrorists who commit such  
5 atrocities are expeditiously apprehended and prosecuted to the fullest  
6 extent commensurate with their despicable deeds.

7       The legislature intends by this act to ensure that those who commit  
8 terrorist acts against persons or property, public or private, and  
9 those that assist them, will be severely punished.

10       NEW SECTION.   **Sec. 3.**   DEFINITIONS.   The definitions in this  
11 section apply throughout this chapter unless the context clearly  
12 requires otherwise.

13       (1) "Terrorist act" means any violent act, or the threat of any  
14 violent act, including mass destruction, bombings, arson, kidnapping,  
15 and assassination, against persons or property, that is intended to  
16 intimidate or coerce a civilian population, affect or influence the  
17 policy of any branch or level of government by intimidation or  
18 coercion, affect or influence the conduct of a civilian population or  
19 any branch or level of government by intimidation or coercion, or exact  
20 revenge, retribution, or retaliation against a civilian population for  
21 the conduct of the population or against any branch or level of  
22 government for a policy or conduct of the government.

23       (2) "Terrorist organization" means any corporation, company,  
24 partnership, association, trust, foundation, fund, club, society,  
25 committee, or other group of two or more persons, whether or not  
26 incorporated, permanently or temporarily associated together that  
27 knowingly, or with reason to know, is engaged in the commission,  
28 instigation, planning, preparation, aiding, or financing of any  
29 terrorist act.

30       (3) "Terrorist" means any person who knowingly, or with reason to  
31 know, is engaged in the commission, instigation, planning, preparation,  
32 aiding, or financing of any terrorist act.

33       (4) "Device" means any apparatus, appliance, contrivance, or  
34 contraption that is assembled, fabricated, or manufactured with any  
35 chemical, biological, explosive, incendiary, flammable, or radiological  
36 substance that is destructive, lethal, noxious, or pyrotechnic, and  
37 that is designed or intended to disfigure, damage, destroy, distract,  
38 or harass.

1 (5) "Imitation, fake, or hoax substance or device" means any  
2 substance or device that is not a chemical, biological, explosive,  
3 incendiary, flammable, or radiological substance or device, but that by  
4 appearance or representation would lead a reasonable person to believe  
5 that the device or substance is a chemical, biological, explosive,  
6 incendiary, flammable, or radiological substance or device.

7 NEW SECTION. **Sec. 4.** CRIMINAL TERRORISM. (1) Any person who,  
8 with intent that his or her terrorist act shall, or with reason to  
9 believe that his or her terrorist act may, injure, harm, interfere  
10 with, interrupt, supplant, nullify, impair, hinder, impede, encumber,  
11 or obstruct the owner's or operator's management, operation,  
12 possession, use, or control of any agricultural, stock raising,  
13 lumbering, mining, quarrying, fishing, manufacturing, transportation,  
14 mercantile, computer, animal, research, or building business or  
15 commercial network or enterprise, or any other public or private  
16 business or commercial network or enterprise, wherein any person is  
17 employed for wage, shall willfully damage or destroy, or attempt or  
18 threaten to damage or destroy, any property whatsoever, or shall  
19 unlawfully take or retain, or attempt or threaten unlawfully to take or  
20 retain, possession or control of any property, instrumentality,  
21 machine, mechanism, appliance, mineral, plant, or animal used in such  
22 business or commercial network or enterprise, is guilty of criminal  
23 terrorism.

24 (2) Criminal terrorism is a class A felony.

25 NEW SECTION. **Sec. 5.** TERRORIST ACTIVITY. (1) It is unlawful for  
26 any person voluntarily and knowingly to:

27 (a) Commit, instigate, plan, prepare, or aid, or attempt to commit,  
28 instigate, plan, prepare, or aid, any terrorist act, or conspire with  
29 one or more persons to commit, instigate, plan, prepare, or aid any  
30 terrorist act; or

31 (b) Solicit or contribute, or attempt to solicit or contribute,  
32 financial support or other material support for or to any terrorist or  
33 terrorist organization knowing the person to be a terrorist or the  
34 organization to be a terrorist organization, or conspire with one or  
35 more persons to solicit or contribute financial support or other  
36 material support for or to any terrorist or terrorist organization

1 knowing the person to be a terrorist or the organization to be a  
2 terrorist organization; or

3 (c) Destroy or secrete, or attempt to destroy or secrete, any  
4 books, records, or files, or secrete in this state any funds, of any  
5 terrorist or terrorist organization, knowing the person to be a  
6 terrorist or the organization to be a terrorist organization, or  
7 conspire with one or more persons to destroy or secrete, any books,  
8 records, or files, or secrete in this state any funds, of any terrorist  
9 or terrorist organization, knowing the person to be a terrorist or the  
10 organization to be a terrorist organization.

11 (2) Terrorist activity is a class B felony.

12 NEW SECTION. **Sec. 6.** MALICIOUS DETONATION OR RELEASE OF A  
13 CHEMICAL, BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR RADIOLOGICAL  
14 SUBSTANCE OR DEVICE. Any person who maliciously, by the detonation or  
15 release of a chemical, biological, explosive, incendiary, flammable, or  
16 radiological substance or device, disfigures, damages, destroys, or  
17 contaminates any building, vehicle, roadway, bridge, ferry, vessel,  
18 canal, train, railroad track, airplane, public or private electric,  
19 water, sewer, gas, telecommunications, or other utility production or  
20 transmission facility, structure or equipment, computer system or  
21 network, or any other structure, utility, common carrier, or mode of  
22 transportation, is guilty of:

23 (1) Malicious detonation or release of a chemical, biological,  
24 explosive, incendiary, flammable, or radiological substance or device  
25 in the first degree if the offense is committed with intent to commit  
26 a terrorist act, or to further the commission, instigation, planning,  
27 preparation, aiding, or financing of any terrorist act. Malicious  
28 detonation or release of a chemical, biological, explosive, incendiary,  
29 flammable, or radiological substance or device in the first degree is  
30 a class A felony;

31 (2) Malicious detonation or release of a chemical, biological,  
32 explosive, incendiary, flammable, or radiological substance or device  
33 in the second degree if the offense is committed under circumstances  
34 not amounting to malicious detonation or release of a chemical,  
35 biological, explosive, incendiary, flammable, or radiological substance  
36 or device in the first degree and if thereby the life or safety of a  
37 human being is endangered. Malicious detonation or release of a

1 chemical, biological, explosive, incendiary, flammable, or radiological  
2 substance or device in the second degree is a class A felony;

3 (3) Malicious detonation or release of a chemical, biological,  
4 explosive, incendiary, flammable, or radiological substance or device  
5 in the third degree if the offense is committed under circumstances not  
6 amounting to malicious detonation or release of a chemical, biological,  
7 explosive, incendiary, flammable, or radiological substance or device  
8 in the first or second degree. Malicious detonation or release of a  
9 chemical, biological, explosive, incendiary, flammable, or radiological  
10 substance or device in the third degree is a class B felony.

11 NEW SECTION. **Sec. 7.** MALICIOUS PLACEMENT OF A CHEMICAL,  
12 BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR RADIOLOGICAL SUBSTANCE  
13 OR DEVICE. Any person who maliciously places a chemical, biological,  
14 explosive, incendiary, flammable, or radiological substance or device  
15 in, upon, under, against, or near any building, vehicle, roadway,  
16 bridge, ferry, vessel, canal, train, railroad track, airplane, public  
17 or private electric, water, sewer, gas, telecommunications, or other  
18 utility production or transmission facility, structure or equipment,  
19 computer system or network, or any other structure, utility, common  
20 carrier, or mode of transportation, in such manner or under such  
21 circumstances as to destroy, contaminate, damage, or injure it if  
22 diffused, ignited, or exploded is guilty of:

23 (1) Malicious placement of a chemical, biological, explosive,  
24 incendiary, flammable, or radiological substance or device in the first  
25 degree if the offense is committed with intent to commit a terrorist  
26 act, or to further the commission, instigation, planning, preparation,  
27 aiding, or financing of any terrorist act. Malicious placement of a  
28 chemical, biological, explosive, incendiary, flammable, or radiological  
29 substance or device in the first degree is a class A felony;

30 (2) Malicious placement of a chemical, biological, explosive,  
31 incendiary, flammable, or radiological substance or device in the  
32 second degree if the offense is committed under circumstances not  
33 amounting to malicious placement of a chemical, biological, explosive,  
34 incendiary, flammable, or radiological substance or device in the first  
35 degree and if thereby the life or safety of a human being is  
36 endangered. Malicious placement of a chemical, biological, explosive,  
37 incendiary, flammable, or radiological substance or device in the  
38 second degree is a class B felony;

1 (3) Malicious placement of a chemical, biological, explosive,  
2 incendiary, flammable, or radiological substance or device in the third  
3 degree if the offense is committed under circumstances not amounting to  
4 malicious placement of a chemical, biological, explosive, incendiary,  
5 flammable, or radiological substance or device in the first or second  
6 degree. Malicious placement of a chemical, biological, explosive,  
7 incendiary, flammable, or radiological substance or device in the third  
8 degree is a class B felony.

9 NEW SECTION. **Sec. 8.** MALICIOUS PLACEMENT OF AN IMITATION, FAKE,  
10 OR HOAX CHEMICAL, BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR  
11 RADIOLOGICAL SUBSTANCE OR DEVICE. Any person who maliciously places an  
12 imitation, fake, or hoax chemical, biological, explosive, incendiary,  
13 flammable, or radiological substance or device in, upon, under,  
14 against, or near any building, vehicle, roadway, bridge, ferry, vessel,  
15 canal, train, railroad track, airplane, public or private electric,  
16 water, sewer, gas, telecommunications, or other utility production or  
17 transmission facility, structure or equipment, computer system or  
18 network, or any other structure, utility, common carrier, or mode of  
19 transportation, with the intent to give the appearance or impression  
20 that the imitation, fake, or hoax substance or device is a chemical,  
21 biological, explosive, incendiary, flammable, or radiological substance  
22 or device, is guilty of:

23 (1) Malicious placement of an imitation, fake, or hoax chemical,  
24 biological, explosive, incendiary, flammable, or radiological substance  
25 or device in the first degree if the offense is committed with intent  
26 to commit a terrorist act, or to further the commission, instigation,  
27 planning, preparation, aiding, or financing of any terrorist act.  
28 Malicious placement of an imitation, fake, or hoax chemical,  
29 biological, explosive, incendiary, flammable, or radiological substance  
30 or device in the first degree is a class B felony;

31 (2) Malicious placement of an imitation, fake, or hoax chemical,  
32 biological, explosive, incendiary, flammable, or radiological substance  
33 or device in the second degree if the offense is committed under  
34 circumstances not amounting to malicious placement of an imitation,  
35 fake, or hoax chemical, biological, explosive, incendiary, flammable,  
36 or radiological substance or device in the first degree. Malicious  
37 placement of an imitation, fake, or hoax chemical, biological,

1 explosive, incendiary, flammable, or radiological substance or device  
2 in the second degree is a class C felony.

3 NEW SECTION. **Sec. 9.** MALICIOUS INTIMIDATION OR HARASSMENT WITH A  
4 CHEMICAL, BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR RADIOLOGICAL  
5 SUBSTANCE OR DEVICE. Any person who maliciously exhibits a chemical,  
6 biological, explosive, incendiary, flammable, or radiological substance  
7 or device who intends to, and does, intimidate or harass a person is  
8 guilty of:

9 (1) Malicious intimidation or harassment with a chemical,  
10 biological, explosive, incendiary, flammable, or radiological substance  
11 or device in the first degree if the offense is committed to further  
12 the commission, instigation, planning, preparation, aiding, or  
13 financing of any terrorist act. Malicious intimidation or harassment  
14 with a chemical, biological, explosive, incendiary, flammable, or  
15 radiological substance or device in the first degree is a class A  
16 felony;

17 (2) Malicious intimidation or harassment with a chemical,  
18 biological, explosive, incendiary, flammable, or radiological substance  
19 or device in the second degree if the offense is committed under  
20 circumstances not amounting to malicious intimidation or harassment  
21 with a chemical, biological, explosive, incendiary, flammable, or  
22 radiological substance or device in the first degree and if thereby the  
23 life or safety of a human being is endangered. Malicious intimidation  
24 or harassment with a chemical, biological, explosive, incendiary,  
25 flammable, or radiological substance or device in the second degree is  
26 a class B felony;

27 (3) Malicious intimidation or harassment with a chemical,  
28 biological, explosive, incendiary, flammable, or radiological substance  
29 or device in the third degree if the offense is committed under  
30 circumstances not amounting to malicious intimidation or harassment  
31 with a chemical, biological, explosive, incendiary, flammable, or  
32 radiological substance or device in the first or second degree.  
33 Malicious intimidation or harassment with a chemical, biological,  
34 explosive, incendiary, flammable, or radiological substance or device  
35 in the third degree is a class C felony.

36 NEW SECTION. **Sec. 10.** MALICIOUS INTIMIDATION OR HARASSMENT WITH  
37 AN IMITATION, FAKE, OR HOAX CHEMICAL, BIOLOGICAL, EXPLOSIVE,

1 INCENDIARY, FLAMMABLE, OR RADIOLOGICAL SUBSTANCE OR DEVICE. Any person  
2 who maliciously exhibits an imitation, fake, or hoax chemical,  
3 biological, explosive, incendiary, flammable, or radiological substance  
4 or device, and who intends to, and does, intimidate or harass a person,  
5 is guilty of:

6 (1) Malicious intimidation or harassment with an imitation, fake,  
7 or hoax chemical, biological, explosive, incendiary, flammable, or  
8 radiological substance or device in the first degree if the offense is  
9 committed to further the commission, instigation, planning,  
10 preparation, aiding, or financing of any terrorist act. Malicious  
11 intimidation or harassment with an imitation, fake, or hoax chemical,  
12 biological, explosive, incendiary, flammable, or radiological substance  
13 or device in the first degree is a class B felony;

14 (2) Malicious intimidation or harassment with an imitation, fake,  
15 or hoax chemical, biological, explosive, incendiary, flammable, or  
16 radiological substance or device in the second degree if the offense is  
17 committed under circumstances not amounting to malicious intimidation  
18 or harassment with an imitation, fake, or hoax chemical, biological,  
19 explosive, incendiary, flammable, or radiological substance or device  
20 in the first degree. Malicious intimidation or harassment with an  
21 imitation, fake, or hoax chemical, biological, explosive, incendiary,  
22 flammable, or radiological substance or device in the second degree is  
23 a class C felony.

24 NEW SECTION. **Sec. 11.** MALICIOUS THREAT TO USE A CHEMICAL,  
25 BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR RADIOLOGICAL SUBSTANCE  
26 OR DEVICE. Any person who maliciously threatens to use a chemical,  
27 biological, explosive, incendiary, flammable, or radiological substance  
28 or device against any public or private school building, any place of  
29 worship or public assembly, any governmental property, or any other  
30 building, common carrier, or structure, or any place used for human  
31 occupancy; or communicates or repeats any information concerning any  
32 such threatened use, knowing such information to be false and with  
33 intent to alarm the person or persons to whom the information is  
34 communicated or repeated is guilty of:

35 (1) Malicious threat to use a chemical, biological, explosive,  
36 incendiary, flammable, or radiological substance or device in the first  
37 degree if the offense is committed to further the commission,  
38 instigation, planning, preparation, aiding, or financing of any



1 terrorist act. Malicious threat to use a chemical, biological,  
2 explosive, incendiary, flammable, or radiological substance or device  
3 in the first degree is a class B felony;

4 (2) Malicious threat to use a chemical, biological, explosive,  
5 incendiary, flammable, or radiological substance or device in the  
6 second degree if the offense is committed under circumstances not  
7 amounting to malicious threat to use a chemical, biological, explosive,  
8 incendiary, flammable, or radiological substance or device in the first  
9 degree and if thereby the life or safety of a human being is  
10 endangered. Malicious threat to use a chemical, biological, explosive,  
11 incendiary, flammable, or radiological substance or device in the  
12 second degree is a class B felony;

13 (3) Malicious threat to use a chemical, biological, explosive,  
14 incendiary, flammable, or radiological substance or device in the third  
15 degree if the offense is committed under circumstances not amounting to  
16 malicious threat to use a chemical, biological, explosive, incendiary,  
17 flammable, or radiological substance or device in the first or second  
18 degree. Malicious threat to use a chemical, biological, explosive,  
19 incendiary, flammable, or radiological substance or device in the third  
20 degree is a class C felony.

21 It is not a defense to any prosecution under this section that the  
22 threat was a hoax.

23 NEW SECTION. **Sec. 12.** ASSEMBLAGE OF TERRORISTS. It is unlawful  
24 for two or more persons to assemble for the purpose of committing,  
25 instigating, planning, preparing, aiding, or financing a terrorist act,  
26 and every person voluntarily and knowingly participating therein by his  
27 or her presence or assistance for such purpose, is guilty of a class C  
28 felony.

29 NEW SECTION. **Sec. 13.** TERRORISTS AND TERRORIST ORGANIZATIONS--  
30 DISPOSITION OF PROPERTY. The property of any person or organization  
31 upon a plea of guilty or upon conviction of violating any of the  
32 provisions of this chapter, is subject to forfeiture. For purposes of  
33 this section, "property" means any personal or real property, tangible  
34 or intangible, which the person or organization had in his or her  
35 possession or under his or her control at the time the offense was  
36 committed and which is shown by a preponderance of the evidence that he  
37 or she knew, or had reason to know, would be used in the commission,

1 preparation, instigation, or financing of any terrorist act.  
2 "Property" does not include any property otherwise exempt from  
3 forfeiture law. The forfeited property or proceeds from the sale of  
4 any forfeited property shall be used first for the purposes providing  
5 restitution to the victims and the families of the victims of the  
6 terrorist, terrorist organization, or terrorist act, then to compensate  
7 or pay for any damage to public facilities, infrastructure, equipment,  
8 or other public property caused by the terrorist, terrorist  
9 organization, or terrorist act, and lastly for the purchase of  
10 equipment used to combat terrorism.

11 **Sec. 14.** RCW 10.95.020 and 1998 c 305 s 1 are each amended to read  
12 as follows:

13 A person is guilty of aggravated first degree murder if he or she  
14 commits first degree murder as defined by RCW 9A.32.030(1)(a), as now  
15 or hereafter amended, and one or more of the following aggravating  
16 circumstances exist:

17 (1) The victim was a law enforcement officer, corrections officer,  
18 or fire fighter who was performing his or her official duties at the  
19 time of the act resulting in death and the victim was known or  
20 reasonably should have been known by the person to be such at the time  
21 of the killing;

22 (2) At the time of the act resulting in the death, the person was  
23 serving a term of imprisonment, had escaped, or was on authorized or  
24 unauthorized leave in or from a state facility or program for the  
25 incarceration or treatment of persons adjudicated guilty of crimes;

26 (3) At the time of the act resulting in death, the person was in  
27 custody in a county or county-city jail as a consequence of having been  
28 adjudicated guilty of a felony;

29 (4) The person committed the murder pursuant to an agreement that  
30 he or she would receive money or any other thing of value for  
31 committing the murder;

32 (5) The person solicited another person to commit the murder and  
33 had paid or had agreed to pay money or any other thing of value for  
34 committing the murder;

35 (6) The person committed the murder to obtain or maintain his or  
36 her membership or to advance his or her position in the hierarchy of an  
37 organization, association, or identifiable group;

1 (7) The murder was committed during the course of or as a result of  
2 a shooting where the discharge of the firearm, as defined in RCW  
3 9.41.010, is either from a motor vehicle or from the immediate area of  
4 a motor vehicle that was used to transport the shooter or the firearm,  
5 or both, to the scene of the discharge;

6 (8) The victim was:

7 (a) A judge; juror or former juror; prospective, current, or former  
8 witness in an adjudicative proceeding; prosecuting attorney; deputy  
9 prosecuting attorney; defense attorney; a member of the indeterminate  
10 sentence review board; or a probation or parole officer; and

11 (b) The murder was related to the exercise of official duties  
12 performed or to be performed by the victim;

13 (9) The person committed the murder to conceal the commission of a  
14 crime or to protect or conceal the identity of any person committing a  
15 crime, including, but specifically not limited to, any attempt to avoid  
16 prosecution as a persistent offender as defined in RCW 9.94A.030;

17 (10) There was more than one victim and the murders were part of a  
18 common scheme or plan or the result of a single act of the person;

19 (11) The murder was committed in the course of, in furtherance of,  
20 or in immediate flight from one of the following crimes:

21 (a) Robbery in the first or second degree;

22 (b) Rape in the first or second degree;

23 (c) Burglary in the first or second degree or residential burglary;

24 (d) Kidnapping in the first degree; ((or))

25 (e) Arson in the first degree;

26 (f) Criminal terrorism;

27 (g) Terrorist activity;

28 (h) Malicious detonation or release of a chemical, biological,  
29 explosive, incendiary, flammable, or radiological substance or device  
30 in the first degree;

31 (i) Malicious placement of a chemical, biological, explosive,  
32 incendiary, flammable, or radiological substance or device in the first  
33 degree;

34 (j) Malicious intimidation or harassment with a chemical,  
35 biological, explosive, incendiary, flammable, or radiological substance  
36 or device in the first degree; or

37 (k) Malicious threat to use a chemical, biological, explosive,  
38 incendiary, flammable, or radiological substance or device in the first  
39 degree;

1 (12) The victim was regularly employed or self-employed as a  
2 newsreporter and the murder was committed to obstruct or hinder the  
3 investigative, research, or reporting activities of the victim;

4 (13) At the time the person committed the murder, there existed a  
5 court order, issued in this or any other state, which prohibited the  
6 person from either contacting the victim, molesting the victim, or  
7 disturbing the peace of the victim, and the person had knowledge of the  
8 existence of that order;

9 (14) At the time the person committed the murder, the person and  
10 the victim were "family or household members" as that term is defined  
11 in RCW 10.99.020(1), and the person had previously engaged in a pattern  
12 or practice of three or more of the following crimes committed upon the  
13 victim within a five-year period, regardless of whether a conviction  
14 resulted:

15 (a) Harassment as defined in RCW 9A.46.020; or

16 (b) Any criminal assault.

17 **Sec. 15.** RCW 9.94A.535 and 2001 2nd sp.s. c 12 s 314 are each  
18 amended to read as follows:

19 The court may impose a sentence outside the standard sentence range  
20 for an offense if it finds, considering the purpose of this chapter,  
21 that there are substantial and compelling reasons justifying an  
22 exceptional sentence. Whenever a sentence outside the standard  
23 sentence range is imposed, the court shall set forth the reasons for  
24 its decision in written findings of fact and conclusions of law. A  
25 sentence outside the standard sentence range shall be a determinate  
26 sentence unless it is imposed on an offender sentenced under RCW  
27 9.94A.712. An exceptional sentence imposed on an offender sentenced  
28 under RCW 9.94A.712 shall be to a minimum term set by the court and a  
29 maximum term equal to the statutory maximum sentence for the offense of  
30 conviction under chapter 9A.20 RCW.

31 If the sentencing court finds that an exceptional sentence outside  
32 the standard sentence range should be imposed, the sentence is subject  
33 to review only as provided for in RCW 9.94A.585(4).

34 A departure from the standards in RCW 9.94A.589 (1) and (2)  
35 governing whether sentences are to be served consecutively or  
36 concurrently is an exceptional sentence subject to the limitations in  
37 this section, and may be appealed by the offender or the state as set  
38 forth in RCW 9.94A.585 (2) through (6).

1 The following are illustrative factors which the court may consider  
2 in the exercise of its discretion to impose an exceptional sentence.  
3 The following are illustrative only and are not intended to be  
4 exclusive reasons for exceptional sentences.

5 (1) Mitigating Circumstances

6 (a) To a significant degree, the victim was an initiator, willing  
7 participant, aggressor, or provoker of the incident.

8 (b) Before detection, the defendant compensated, or made a good  
9 faith effort to compensate, the victim of the criminal conduct for any  
10 damage or injury sustained.

11 (c) The defendant committed the crime under duress, coercion,  
12 threat, or compulsion insufficient to constitute a complete defense but  
13 which significantly affected his or her conduct.

14 (d) The defendant, with no apparent predisposition to do so, was  
15 induced by others to participate in the crime.

16 (e) The defendant's capacity to appreciate the wrongfulness of his  
17 or her conduct, or to conform his or her conduct to the requirements of  
18 the law, was significantly impaired. Voluntary use of drugs or alcohol  
19 is excluded.

20 (f) The offense was principally accomplished by another person and  
21 the defendant manifested extreme caution or sincere concern for the  
22 safety or well-being of the victim.

23 (g) The operation of the multiple offense policy of RCW 9.94A.589  
24 results in a presumptive sentence that is clearly excessive in light of  
25 the purpose of this chapter, as expressed in RCW 9.94A.010.

26 (h) The defendant or the defendant's children suffered a continuing  
27 pattern of physical or sexual abuse by the victim of the offense and  
28 the offense is a response to that abuse.

29 (2) Aggravating Circumstances

30 (a) The current offense involved a major violation of the  
31 antiterrorism crime act of 2002, which was more onerous than the  
32 typical offense of its statutory definition: The presence of ANY of  
33 the following may identify a current offense as a major antiterrorism  
34 crime act of 2002 violation:

35 (i) The current offense involved at least three separate actions to  
36 instigate, commit, aid, or fund, or attempt to instigate, commit, aid,  
37 or fund, any terrorist act, or to aid or fund any terrorist or  
38 terrorist organization;

1        (ii) The current offense involved a terrorist act, or an attempted  
2 terrorist act, with a large number of victims or potential victims;

3        (iii) The circumstances of the current offense reveal the offender  
4 to have occupied a high position in the terrorist organization  
5 hierarchy;

6        (iv) The current offense involved a high degree of sophistication  
7 or planning, occurred over a lengthy period of time, or involved a  
8 broad geographic target area; or

9        (v) The offender used his or her position or status to facilitate  
10 the commission of the current offense, including any position of trust,  
11 confidence, or fiduciary responsibility.

12        (b) The defendant's conduct during the commission of the current  
13 offense manifested deliberate cruelty to the victim.

14        ~~((b))~~ (c) The defendant knew or should have known that the victim  
15 of the current offense was particularly vulnerable or incapable of  
16 resistance due to extreme youth, advanced age, disability, or ill  
17 health.

18        ~~((e))~~ (d) The current offense was a violent offense, and the  
19 defendant knew that the victim of the current offense was pregnant.

20        ~~((d))~~ (e) The current offense was a major economic offense or  
21 series of offenses, so identified by a consideration of any of the  
22 following factors:

23        (i) The current offense involved multiple victims or multiple  
24 incidents per victim;

25        (ii) The current offense involved attempted or actual monetary loss  
26 substantially greater than typical for the offense;

27        (iii) The current offense involved a high degree of sophistication  
28 or planning or occurred over a lengthy period of time; or

29        (iv) The defendant used his or her position of trust, confidence,  
30 or fiduciary responsibility to facilitate the commission of the current  
31 offense.

32        ~~((e))~~ (f) The current offense was a major violation of the  
33 Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related  
34 to trafficking in controlled substances, which was more onerous than  
35 the typical offense of its statutory definition: The presence of ANY  
36 of the following may identify a current offense as a major VUCSA:

37        (i) The current offense involved at least three separate  
38 transactions in which controlled substances were sold, transferred, or  
39 possessed with intent to do so;

1 (ii) The current offense involved an attempted or actual sale or  
2 transfer of controlled substances in quantities substantially larger  
3 than for personal use;

4 (iii) The current offense involved the manufacture of controlled  
5 substances for use by other parties;

6 (iv) The circumstances of the current offense reveal the offender  
7 to have occupied a high position in the drug distribution hierarchy;

8 (v) The current offense involved a high degree of sophistication or  
9 planning, occurred over a lengthy period of time, or involved a broad  
10 geographic area of disbursement; or

11 (vi) The offender used his or her position or status to facilitate  
12 the commission of the current offense, including positions of trust,  
13 confidence or fiduciary responsibility (e.g., pharmacist, physician, or  
14 other medical professional).

15 ~~((f))~~ (g) The current offense included a finding of sexual  
16 motivation pursuant to RCW 9.94A.835.

17 ~~((g))~~ (h) The offense was part of an ongoing pattern of sexual  
18 abuse of the same victim under the age of eighteen years manifested by  
19 multiple incidents over a prolonged period of time.

20 ~~((h))~~ (i) The current offense involved domestic violence, as  
21 defined in RCW 10.99.020, and one or more of the following was present:

22 (i) The offense was part of an ongoing pattern of psychological,  
23 physical, or sexual abuse of the victim manifested by multiple  
24 incidents over a prolonged period of time;

25 (ii) The offense occurred within sight or sound of the victim's or  
26 the offender's minor children under the age of eighteen years; or

27 (iii) The offender's conduct during the commission of the current  
28 offense manifested deliberate cruelty or intimidation of the victim.

29 ~~((i))~~ (j) The operation of the multiple offense policy of RCW  
30 9.94A.589 results in a presumptive sentence that is clearly too lenient  
31 in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

32 ~~((j))~~ (k) The defendant's prior unscored misdemeanor or prior  
33 unscored foreign criminal history results in a presumptive sentence  
34 that is clearly too lenient in light of the purpose of this chapter, as  
35 expressed in RCW 9.94A.010.

36 ~~((k))~~ (l) The offense resulted in the pregnancy of a child victim  
37 of rape.

38 ~~((l))~~ (m) The defendant knew that the victim of the current  
39 offense was a youth who was not residing with a legal custodian and the

1 defendant established or promoted the relationship for the primary  
2 purpose of victimization.

3 **Sec. 16.** RCW 9.94A.030 and 2001 2nd sp.s. c 12 s 301, 2001 c 300  
4 s 3, and 2001 c 7 s 2 are each reenacted and amended to read as  
5 follows:

6 Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout this chapter.

8 (1) "Board" means the indeterminate sentence review board created  
9 under chapter 9.95 RCW.

10 (2) "Collect," or any derivative thereof, "collect and remit," or  
11 "collect and deliver," when used with reference to the department,  
12 means that the department, either directly or through a collection  
13 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
14 and enforcing the offender's sentence with regard to the legal  
15 financial obligation, receiving payment thereof from the offender, and,  
16 consistent with current law, delivering daily the entire payment to the  
17 superior court clerk without depositing it in a departmental account.

18 (3) "Commission" means the sentencing guidelines commission.

19 (4) "Community corrections officer" means an employee of the  
20 department who is responsible for carrying out specific duties in  
21 supervision of sentenced offenders and monitoring of sentence  
22 conditions.

23 (5) "Community custody" means that portion of an offender's  
24 sentence of confinement in lieu of earned release time or imposed  
25 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,  
26 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the  
27 community subject to controls placed on the offender's movement and  
28 activities by the department. For offenders placed on community  
29 custody for crimes committed on or after July 1, 2000, the department  
30 shall assess the offender's risk of reoffense and may establish and  
31 modify conditions of community custody, in addition to those imposed by  
32 the court, based upon the risk to community safety.

33 (6) "Community custody range" means the minimum and maximum period  
34 of community custody included as part of a sentence under RCW  
35 9.94A.715, as established by the commission or the legislature under  
36 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

37 (7) "Community placement" means that period during which the  
38 offender is subject to the conditions of community custody and/or



1 postrelease supervision, which begins either upon completion of the  
2 term of confinement (postrelease supervision) or at such time as the  
3 offender is transferred to community custody in lieu of earned release.  
4 Community placement may consist of entirely community custody, entirely  
5 postrelease supervision, or a combination of the two.

6 (8) "Community service" means compulsory service, without  
7 compensation, performed for the benefit of the community by the  
8 offender.

9 (9) "Community supervision" means a period of time during which a  
10 convicted offender is subject to crime-related prohibitions and other  
11 sentence conditions imposed by a court pursuant to this chapter or RCW  
12 16.52.200(6) or 46.61.524. Where the court finds that any offender has  
13 a chemical dependency that has contributed to his or her offense, the  
14 conditions of supervision may, subject to available resources, include  
15 treatment. For purposes of the interstate compact for out-of-state  
16 supervision of parolees and probationers, RCW 9.95.270, community  
17 supervision is the functional equivalent of probation and should be  
18 considered the same as probation by other states.

19 (10) "Confinement" means total or partial confinement.

20 (11) "Conviction" means an adjudication of guilt pursuant to Titles  
21 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
22 acceptance of a plea of guilty.

23 (12) "Crime-related prohibition" means an order of a court  
24 prohibiting conduct that directly relates to the circumstances of the  
25 crime for which the offender has been convicted, and shall not be  
26 construed to mean orders directing an offender affirmatively to  
27 participate in rehabilitative programs or to otherwise perform  
28 affirmative conduct. However, affirmative acts necessary to monitor  
29 compliance with the order of a court may be required by the department.

30 (13) "Criminal history" means the list of a defendant's prior  
31 convictions and juvenile adjudications, whether in this state, in  
32 federal court, or elsewhere. The history shall include, where known,  
33 for each conviction (a) whether the defendant has been placed on  
34 probation and the length and terms thereof; and (b) whether the  
35 defendant has been incarcerated and the length of incarceration.

36 (14) "Day fine" means a fine imposed by the sentencing court that  
37 equals the difference between the offender's net daily income and the  
38 reasonable obligations that the offender has for the support of the  
39 offender and any dependents.

1 (15) "Day reporting" means a program of enhanced supervision  
2 designed to monitor the offender's daily activities and compliance with  
3 sentence conditions, and in which the offender is required to report  
4 daily to a specific location designated by the department or the  
5 sentencing court.

6 (16) "Department" means the department of corrections.

7 (17) "Determinate sentence" means a sentence that states with  
8 exactitude the number of actual years, months, or days of total  
9 confinement, of partial confinement, of community supervision, the  
10 number of actual hours or days of community service work, or dollars or  
11 terms of a legal financial obligation. The fact that an offender  
12 through earned release can reduce the actual period of confinement  
13 shall not affect the classification of the sentence as a determinate  
14 sentence.

15 (18) "Disposable earnings" means that part of the earnings of an  
16 offender remaining after the deduction from those earnings of any  
17 amount required by law to be withheld. For the purposes of this  
18 definition, "earnings" means compensation paid or payable for personal  
19 services, whether denominated as wages, salary, commission, bonuses, or  
20 otherwise, and, notwithstanding any other provision of law making the  
21 payments exempt from garnishment, attachment, or other process to  
22 satisfy a court-ordered legal financial obligation, specifically  
23 includes periodic payments pursuant to pension or retirement programs,  
24 or insurance policies of any type, but does not include payments made  
25 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
26 or Title 74 RCW.

27 (19) "Drug offender sentencing alternative" is a sentencing option  
28 available to persons convicted of a felony offense other than a violent  
29 offense or a sex offense and who are eligible for the option under RCW  
30 9.94A.660.

31 (20) "Drug offense" means:

32 (a) Any felony violation of chapter 69.50 RCW except possession of  
33 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
34 controlled substance (RCW 69.50.403);

35 (b) Any offense defined as a felony under federal law that relates  
36 to the possession, manufacture, distribution, or transportation of a  
37 controlled substance; or

1 (c) Any out-of-state conviction for an offense that under the laws  
2 of this state would be a felony classified as a drug offense under (a)  
3 of this subsection.

4 (21) "Earned release" means earned release from confinement as  
5 provided in RCW 9.94A.728.

6 (22) "Escape" means:

7 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
8 first degree (RCW 9A.76.110), escape in the second degree (RCW  
9 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
10 willful failure to return from work release (RCW 72.65.070), or willful  
11 failure to be available for supervision by the department while in  
12 community custody (RCW 72.09.310); or

13 (b) Any federal or out-of-state conviction for an offense that  
14 under the laws of this state would be a felony classified as an escape  
15 under (a) of this subsection.

16 (23) "Felony traffic offense" means:

17 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
18 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
19 and-run injury-accident (RCW 46.52.020(4)); or

20 (b) Any federal or out-of-state conviction for an offense that  
21 under the laws of this state would be a felony classified as a felony  
22 traffic offense under (a) of this subsection.

23 (24) "Fine" means a specific sum of money ordered by the sentencing  
24 court to be paid by the offender to the court over a specific period of  
25 time.

26 (25) "First-time offender" means any person who has no prior  
27 convictions for a felony and is eligible for the first-time offender  
28 waiver under RCW 9.94A.650.

29 (26) "Home detention" means a program of partial confinement  
30 available to offenders wherein the offender is confined in a private  
31 residence subject to electronic surveillance.

32 (27) "Legal financial obligation" means a sum of money that is  
33 ordered by a superior court of the state of Washington for legal  
34 financial obligations which may include restitution to the victim,  
35 statutorily imposed crime victims' compensation fees as assessed  
36 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,  
37 court-appointed attorneys' fees, and costs of defense, fines, and any  
38 other financial obligation that is assessed to the offender as a result  
39 of a felony conviction. Upon conviction for vehicular assault while

1 under the influence of intoxicating liquor or any drug, RCW  
2 46.61.522(1)(b), or vehicular homicide while under the influence of  
3 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial  
4 obligations may also include payment to a public agency of the expense  
5 of an emergency response to the incident resulting in the conviction,  
6 subject to RCW 38.52.430.

7 (28) "Most serious offense" means any of the following felonies or  
8 a felony attempt to commit any of the following felonies:

9 (a) Any felony defined under any law as a class A felony or  
10 criminal solicitation of or criminal conspiracy to commit a class A  
11 felony;

12 (b) Assault in the second degree;

13 (c) Assault of a child in the second degree;

14 (d) Child molestation in the second degree;

15 (e) Controlled substance homicide;

16 (f) Extortion in the first degree;

17 (g) Incest when committed against a child under age fourteen;

18 (h) Indecent liberties;

19 (i) Kidnapping in the second degree;

20 (j) Leading organized crime;

21 (k) Manslaughter in the first degree;

22 (l) Manslaughter in the second degree;

23 (m) Promoting prostitution in the first degree;

24 (n) Rape in the third degree;

25 (o) Robbery in the second degree;

26 (p) Sexual exploitation;

27 (q) Vehicular assault, when caused by the operation or driving of  
28 a vehicle by a person while under the influence of intoxicating liquor  
29 or any drug or by the operation or driving of a vehicle in a reckless  
30 manner;

31 (r) Vehicular homicide, when proximately caused by the driving of  
32 any vehicle by any person while under the influence of intoxicating  
33 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
34 any vehicle in a reckless manner;

35 (s) Any other class B felony offense with a finding of sexual  
36 motivation;

37 (t) Any other felony with a deadly weapon verdict under RCW  
38 9.94A.602;

1 (u) Any felony offense in effect at any time prior to December 2,  
2 1993, that is comparable to a most serious offense under this  
3 subsection, or any federal or out-of-state conviction for an offense  
4 that under the laws of this state would be a felony classified as a  
5 most serious offense under this subsection;

6 (v)(i) A prior conviction for indecent liberties under RCW  
7 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
8 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
9 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
10 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

11 (ii) A prior conviction for indecent liberties under RCW  
12 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
13 if: (A) The crime was committed against a child under the age of  
14 fourteen; or (B) the relationship between the victim and perpetrator is  
15 included in the definition of indecent liberties under RCW  
16 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
17 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
18 through July 27, 1997;

19 (w) Terrorist activity;

20 (x) Malicious placement of an imitation, hoax, or fake chemical,  
21 biological, explosive, incendiary, flammable, or radiological substance  
22 or device in the first degree;

23 (y) Malicious intimidation or harassment with an imitation, hoax,  
24 or fake chemical, biological, explosive, incendiary, flammable, or  
25 radiological substance or device in the second degree;

26 (z) Assemblage of terrorists.

27 (29) "Nonviolent offense" means an offense which is not a violent  
28 offense.

29 (30) "Offender" means a person who has committed a felony  
30 established by state law and is eighteen years of age or older or is  
31 less than eighteen years of age but whose case is under superior court  
32 jurisdiction under RCW 13.04.030 or has been transferred by the  
33 appropriate juvenile court to a criminal court pursuant to RCW  
34 13.40.110. Throughout this chapter, the terms "offender" and  
35 "defendant" are used interchangeably.

36 (31) "Partial confinement" means confinement for no more than one  
37 year in a facility or institution operated or utilized under contract  
38 by the state or any other unit of government, or, if home detention or  
39 work crew has been ordered by the court, in an approved residence, for

1 a substantial portion of each day with the balance of the day spent in  
2 the community. Partial confinement includes work release, home  
3 detention, work crew, and a combination of work crew and home  
4 detention.

5 (32) "Persistent offender" is an offender who:

6 (a)(i) Has been convicted in this state of any felony considered a  
7 most serious offense; and

8 (ii) Has, before the commission of the offense under (a) of this  
9 subsection, been convicted as an offender on at least two separate  
10 occasions, whether in this state or elsewhere, of felonies that under  
11 the laws of this state would be considered most serious offenses and  
12 would be included in the offender score under RCW 9.94A.525; provided  
13 that of the two or more previous convictions, at least one conviction  
14 must have occurred before the commission of any of the other most  
15 serious offenses for which the offender was previously convicted; or

16 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
17 of a child in the first degree, child molestation in the first degree,  
18 rape in the second degree, rape of a child in the second degree, or  
19 indecent liberties by forcible compulsion; (B) any of the following  
20 offenses with a finding of sexual motivation: Murder in the first  
21 degree, murder in the second degree, homicide by abuse, kidnapping in  
22 the first degree, kidnapping in the second degree, assault in the first  
23 degree, assault in the second degree, assault of a child in the first  
24 degree, or burglary in the first degree; or (C) an attempt to commit  
25 any crime listed in this subsection (32)(b)(i); and

26 (ii) Has, before the commission of the offense under (b)(i) of this  
27 subsection, been convicted as an offender on at least one occasion,  
28 whether in this state or elsewhere, of an offense listed in (b)(i) of  
29 this subsection or any federal or out-of-state offense or offense under  
30 prior Washington law that is comparable to the offenses listed in  
31 (b)(i) of this subsection. A conviction for rape of a child in the  
32 first degree constitutes a conviction under (b)(i) of this subsection  
33 only when the offender was sixteen years of age or older when the  
34 offender committed the offense. A conviction for rape of a child in  
35 the second degree constitutes a conviction under (b)(i) of this  
36 subsection only when the offender was eighteen years of age or older  
37 when the offender committed the offense.

38 (33) "Postrelease supervision" is that portion of an offender's  
39 community placement that is not community custody.

1 (34) "Restitution" means a specific sum of money ordered by the  
2 sentencing court to be paid by the offender to the court over a  
3 specified period of time as payment of damages. The sum may include  
4 both public and private costs.

5 (35) "Risk assessment" means the application of an objective  
6 instrument supported by research and adopted by the department for the  
7 purpose of assessing an offender's risk of reoffense, taking into  
8 consideration the nature of the harm done by the offender, place and  
9 circumstances of the offender related to risk, the offender's  
10 relationship to any victim, and any information provided to the  
11 department by victims. The results of a risk assessment shall not be  
12 based on unconfirmed or unconfirmable allegations.

13 (36) "Serious traffic offense" means:

14 (a) Driving while under the influence of intoxicating liquor or any  
15 drug (RCW 46.61.502), actual physical control while under the influence  
16 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
17 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
18 or

19 (b) Any federal, out-of-state, county, or municipal conviction for  
20 an offense that under the laws of this state would be classified as a  
21 serious traffic offense under (a) of this subsection.

22 (37) "Serious violent offense" is a subcategory of violent offense  
23 and means:

24 (a)(i) Murder in the first degree;

25 (ii) Homicide by abuse;

26 (iii) Murder in the second degree;

27 (iv) Manslaughter in the first degree;

28 (v) Assault in the first degree;

29 (vi) Kidnapping in the first degree;

30 (vii) Rape in the first degree;

31 (viii) Assault of a child in the first degree; or

32 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
33 commit one of these felonies; or

34 (b) Any federal or out-of-state conviction for an offense that  
35 under the laws of this state would be a felony classified as a serious  
36 violent offense under (a) of this subsection.

37 (38) "Sex offense" means:

38 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than  
39 RCW 9A.44.130(11);

1 (ii) A violation of RCW 9A.64.020;

2 (iii) A felony that is a violation of chapter 9.68A RCW other than  
3 RCW 9.68A.070 or 9.68A.080; or

4 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
5 criminal solicitation, or criminal conspiracy to commit such crimes;

6 (b) Any conviction for a felony offense in effect at any time prior  
7 to July 1, 1976, that is comparable to a felony classified as a sex  
8 offense in (a) of this subsection;

9 (c) A felony with a finding of sexual motivation under RCW  
10 9.94A.835 or 13.40.135; or

11 (d) Any federal or out-of-state conviction for an offense that  
12 under the laws of this state would be a felony classified as a sex  
13 offense under (a) of this subsection.

14 (39) "Sexual motivation" means that one of the purposes for which  
15 the defendant committed the crime was for the purpose of his or her  
16 sexual gratification.

17 (40) "Standard sentence range" means the sentencing court's  
18 discretionary range in imposing a nonappealable sentence.

19 (41) "Statutory maximum sentence" means the maximum length of time  
20 for which an offender may be confined as punishment for a crime as  
21 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the  
22 crime, or other statute defining the maximum penalty for a crime.

23 (42) "Total confinement" means confinement inside the physical  
24 boundaries of a facility or institution operated or utilized under  
25 contract by the state or any other unit of government for twenty-four  
26 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

27 (43) "Transition training" means written and verbal instructions  
28 and assistance provided by the department to the offender during the  
29 two weeks prior to the offender's successful completion of the work  
30 ethic camp program. The transition training shall include instructions  
31 in the offender's requirements and obligations during the offender's  
32 period of community custody.

33 (44) "Victim" means any person who has sustained emotional,  
34 psychological, physical, or financial injury to person or property as  
35 a direct result of the crime charged.

36 (45) "Violent offense" means:

37 (a) Any of the following felonies:

38 (i) Any felony defined under any law as a class A felony or an  
39 attempt to commit a class A felony;



1 (ii) Criminal solicitation of or criminal conspiracy to commit a  
2 class A felony;

3 (iii) Manslaughter in the first degree;

4 (iv) Manslaughter in the second degree;

5 (v) Indecent liberties if committed by forcible compulsion;

6 (vi) Kidnapping in the second degree;

7 (vii) Arson in the second degree;

8 (viii) Assault in the second degree;

9 (ix) Assault of a child in the second degree;

10 (x) Extortion in the first degree;

11 (xi) Robbery in the second degree;

12 (xii) Drive-by shooting;

13 (xiii) Vehicular assault, when caused by the operation or driving  
14 of a vehicle by a person while under the influence of intoxicating  
15 liquor or any drug or by the operation or driving of a vehicle in a  
16 reckless manner; and

17 (xiv) Vehicular homicide, when proximately caused by the driving of  
18 any vehicle by any person while under the influence of intoxicating  
19 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
20 any vehicle in a reckless manner;

21 (b) Any conviction for a felony offense in effect at any time prior  
22 to July 1, 1976, that is comparable to a felony classified as a violent  
23 offense in (a) of this subsection; and

24 (c) Any federal or out-of-state conviction for an offense that  
25 under the laws of this state would be a felony classified as a violent  
26 offense under (a) or (b) of this subsection.

27 (46) "Work crew" means a program of partial confinement consisting  
28 of civic improvement tasks for the benefit of the community that  
29 complies with RCW 9.94A.725.

30 (47) "Work ethic camp" means an alternative incarceration program  
31 as provided in RCW 9.94A.690 designed to reduce recidivism and lower  
32 the cost of corrections by requiring offenders to complete a  
33 comprehensive array of real-world job and vocational experiences,  
34 character-building work ethics training, life management skills  
35 development, substance abuse rehabilitation, counseling, literacy  
36 training, and basic adult education.

37 (48) "Work release" means a program of partial confinement  
38 available to offenders who are employed or engaged as a student in a  
39 regular course of study at school.

1       **Sec. 17.** RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300  
2 s 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended  
3 to read as follows:

4                               TABLE 2

5               CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

6	XVI	Aggravated Murder 1 (RCW 10.95.020)
7	XV	<u>Criminal terrorism (section 4 of this act)</u>
8		<u>Homicide by abuse (RCW 9A.32.055)</u>
9		<del>((Malicious explosion 1 (RCW</del>
10		<del>70.74.280(1)))</del>
11		<u>Malicious detonation or release of a</u>
12		<u>chemical, biological, explosive,</u>
13		<u>incendiary, flammable, or radiological</u>
14		<u>substance or device 1 (section 6(1) of</u>
15		<u>this act)</u>
16		Murder 1 (RCW 9A.32.030)
17	XIV	<u>Malicious detonation or release of a</u>
18		<u>chemical, biological, explosive,</u>
19		<u>incendiary, flammable, or radiological</u>
20		<u>substance or device 2 (section 6(2) of</u>
21		<u>this act)</u>
22		<u>Malicious placement of a chemical,</u>
23		<u>biological, explosive, incendiary,</u>
24		<u>flammable, or radiological substance</u>
25		<u>or device 1 (section 7(1) of this act)</u>
26		Murder 2 (RCW 9A.32.050)
27	XIII	<del>((Malicious explosion 2 (RCW 70.74.280(2))</del>
28		<del>Malicious placement of an explosive 1 (RCW</del>
29		<del>70.74.270(1)))</del>
30		<u>Malicious placement of an imitation, fake,</u>
31		<u>or hoax chemical, biological,</u>
32		<u>explosive, incendiary, flammable, or</u>
33		<u>radiological substance or device 1</u>
34		<u>(section 8(1) of this act)</u>
35	XII	Assault 1 (RCW 9A.36.011)
36		Assault of a Child 1 (RCW 9A.36.120)

1 ((Malicious placement of an imitation  
2 device 1 (RCW 70.74.272(1)(a))))  
3 Rape 1 (RCW 9A.44.040)  
4 Rape of a Child 1 (RCW 9A.44.073)

5 XI Malicious detonation or release of a  
6 chemical, biological, explosive,  
7 incendiary, flammable, or radiological  
8 substance or device 3 (section 6(3) of  
9 this act)  
10 Manslaughter 1 (RCW 9A.32.060)  
11 Rape 2 (RCW 9A.44.050)  
12 Rape of a Child 2 (RCW 9A.44.076)

13 X Child Molestation 1 (RCW 9A.44.083)  
14 Indecent Liberties (with forcible  
15 compulsion) (RCW 9A.44.100(1)(a))  
16 Kidnapping 1 (RCW 9A.40.020)  
17 Leading Organized Crime (RCW  
18 9A.82.060(1)(a))  
19 ((Malicious explosion 3 (RCW  
20 70.74.280(3))))  
21 Malicious placement of a chemical,  
22 biological, explosive, incendiary,  
23 flammable, or radiological substance  
24 or device 2 (section 7(2) of this act)  
25 Manufacture of methamphetamine (RCW  
26 69.50.401(a)(1)(ii))  
27 Over 18 and deliver heroin,  
28 methamphetamine, a narcotic from  
29 Schedule I or II, or flunitrazepam  
30 from Schedule IV to someone under 18  
31 (RCW 69.50.406)  
32 Sexually Violent Predator Escape (RCW  
33 9A.76.115)

34 IX Assault of a Child 2 (RCW 9A.36.130)  
35 Controlled Substance Homicide (RCW  
36 69.50.415)  
37 Explosive devices prohibited (RCW  
38 70.74.180)

1 Hit and Run--Death (RCW 46.52.020(4)(a))  
2 Homicide by Watercraft, by being under the  
3 influence of intoxicating liquor or  
4 any drug (RCW 79A.60.050)  
5 Inciting Criminal Profiteering (RCW  
6 9A.82.060(1)(b))  
7 ~~((Malicious placement of an explosive 2~~  
8 ~~{RCW 70.74.270(2)}))~~  
9 Over 18 and deliver narcotic from Schedule  
10 III, IV, or V or a nonnarcotic, except  
11 flunitrazepam or methamphetamine, from  
12 Schedule I-V to someone under 18 and 3  
13 years junior (RCW 69.50.406)  
14 Robbery 1 (RCW 9A.56.200)  
15 Sexual Exploitation (RCW 9.68A.040)  
16 Terrorist activity (section 5 of this act)  
17 Vehicular Homicide, by being under the  
18 influence of intoxicating liquor or  
19 any drug (RCW 46.61.520)

20 VIII Arson 1 (RCW 9A.48.020)  
21 Assemblage of terrorists (section 12 of  
22 this act)  
23 Deliver or possess with intent to deliver  
24 m e t h a m p h e t a m i n e ( R C W  
25 69.50.401(a)(1)(ii))  
26 Homicide by Watercraft, by the operation of  
27 any vessel in a reckless manner (RCW  
28 79A.60.050)  
29 Malicious placement of a chemical,  
30 biological, explosive, incendiary,  
31 flammable, or radiological substance  
32 or device 3 (section 7(3) of this act)  
33 Manslaughter 2 (RCW 9A.32.070)  
34 Manufacture, deliver, or possess with  
35 intent to deliver amphetamine (RCW  
36 69.50.401(a)(1)(ii))  
37 Manufacture, deliver, or possess with  
38 intent to deliver heroin or cocaine  
39 (RCW 69.50.401(a)(1)(i))

1 Possession of Ephedrine, Pseudoephedrine,  
2 or Anhydrous Ammonia with intent to  
3 manufacture methamphetamine (RCW  
4 69.50.440)  
5 Promoting Prostitution 1 (RCW 9A.88.070)  
6 Selling for profit (controlled or  
7 counterfeit) any controlled substance  
8 (RCW 69.50.410)  
9 Theft of Anhydrous Ammonia (RCW 69.55.010)  
10 Vehicular Homicide, by the operation of any  
11 vehicle in a reckless manner (RCW  
12 46.61.520)

13 VII Burglary 1 (RCW 9A.52.020)  
14 Child Molestation 2 (RCW 9A.44.086)  
15 Dealing in depictions of minor engaged in  
16 sexually explicit conduct (RCW  
17 9.68A.050)  
18 Drive-by Shooting (RCW 9A.36.045)  
19 Homicide by Watercraft, by disregard for  
20 the safety of others (RCW 79A.60.050)  
21 Indecent Liberties (without forcible  
22 compulsion) (RCW 9A.44.100(1) (b) and  
23 (c))  
24 Introducing Contraband 1 (RCW 9A.76.140)  
25 Involving a minor in drug dealing (RCW  
26 69.50.401(f))  
27 ~~((Malicious placement of an explosive 3~~  
28 ~~{RCW 70.74.270(3)}))~~  
29 Malicious intimidation or harassment with a  
30 chemical, biological, explosive,  
31 incendiary, flammable, or radiological  
32 substance or device 1 (section 9(1) of  
33 this act)  
34 Malicious placement of an imitation, fake,  
35 or hoax chemical, biological,  
36 explosive, incendiary, flammable, or  
37 radiological substance or device 2  
38 (section 8(2) of this act)

1 Malicious threat to use a chemical,  
2 biological, explosive, incendiary,  
3 flammable, or radiological substance  
4 or device 1 (section 11(1) of this  
5 act)

6 Sending, bringing into state depictions of  
7 minor engaged in sexually explicit  
8 conduct (RCW 9.68A.060)

9 Unlawful Possession of a Firearm in the  
10 first degree (RCW 9.41.040(1)(a))

11 Use of a Machine Gun in Commission of a  
12 Felony (RCW 9.41.225)

13 Vehicular Homicide, by disregard for the  
14 safety of others (RCW 46.61.520)

15 VI Bail Jumping with Murder 1 (RCW  
16 9A.76.170(3)(a))

17 Bribery (RCW 9A.68.010)

18 Incest 1 (RCW 9A.64.020(1))

19 Intimidating a Judge (RCW 9A.72.160)

20 Intimidating a Juror/Witness (RCW  
21 9A.72.110, 9A.72.130)

22 ~~((Malicious placement of an imitation  
23 device 2 (RCW 70.74.272(1)(b))))~~

24 Malicious intimidation or harassment with a  
25 chemical, biological, explosive,  
26 incendiary, flammable, or radiological  
27 substance or device 2 (section 9(2) of  
28 this act)

29 Malicious threat to use a chemical,  
30 biological, explosive, incendiary,  
31 flammable, or radiological substance  
32 or device 2 (section 11(2) of this  
33 act)

34 Manufacture, deliver, or possess with  
35 intent to deliver narcotics from  
36 Schedule I or II (except heroin or  
37 cocaine) or flunitrazepam from  
38 Schedule IV (RCW 69.50.401(a)(1)(i))

39 Rape of a Child 3 (RCW 9A.44.079)

1 Theft of a Firearm (RCW 9A.56.300)  
2 Unlawful Storage of Anhydrous Ammonia (RCW  
3 69.55.020)

4 V Abandonment of dependent person 1 (RCW  
5 9A.42.060)

6 Advancing money or property for  
7 extortionate extension of credit (RCW  
8 9A.82.030)

9 Bail Jumping with class A Felony (RCW  
10 9A.76.170(3)(b))

11 Child Molestation 3 (RCW 9A.44.089)

12 Criminal Mistreatment 1 (RCW 9A.42.020)

13 Custodial Sexual Misconduct 1 (RCW  
14 9A.44.160)

15 Delivery of imitation controlled substance  
16 by person eighteen or over to person  
17 under eighteen (RCW 69.52.030(2))

18 Domestic Violence Court Order Violation  
19 (RCW 10.99.040, 10.99.050, 26.09.300,  
20 26.10.220, 26.26.138, 26.50.110,  
21 26.52.070, or 74.34.145)

22 Extortion 1 (RCW 9A.56.120)

23 Extortionate Extension of Credit (RCW  
24 9A.82.020)

25 Extortionate Means to Collect Extensions of  
26 Credit (RCW 9A.82.040)

27 Incest 2 (RCW 9A.64.020(2))

28 Kidnapping 2 (RCW 9A.40.030)

29 Malicious intimidation or harassment with a  
30 chemical, biological, explosive,  
31 incendiary, flammable, or radiological  
32 substance or device 3 (section 9(3) of  
33 this act)

34 Malicious intimidation or harassment with  
35 an imitation, fake, or hoax chemical,  
36 biological, explosive, incendiary,  
37 flammable, or radiological substance  
38 or device 1 (section 10(1) of this  
39 act)

1 Malicious threat to use a chemical,  
2 biological, explosive, incendiary,  
3 flammable, or radiological substance  
4 or device 3 (section 11(3) of this  
5 act)

6 Perjury 1 (RCW 9A.72.020)

7 Persistent prison misbehavior (RCW  
8 9.94.070)

9 Possession of a Stolen Firearm (RCW  
10 9A.56.310)

11 Rape 3 (RCW 9A.44.060)

12 Rendering Criminal Assistance 1 (RCW  
13 9A.76.070)

14 Sexual Misconduct with a Minor 1 (RCW  
15 9A.44.093)

16 Sexually Violating Human Remains (RCW  
17 9A.44.105)

18 Stalking (RCW 9A.46.110)

19 IV Arson 2 (RCW 9A.48.030)

20 Assault 2 (RCW 9A.36.021)

21 Assault by Watercraft (RCW 79A.60.060)

22 Bribing a Witness/Bribe Received by Witness  
23 (RCW 9A.72.090, 9A.72.100)

24 Commercial Bribery (RCW 9A.68.060)

25 Counterfeiting (RCW 9.16.035(4))

26 Escape 1 (RCW 9A.76.110)

27 Hit and Run--Injury (RCW 46.52.020(4)(b))

28 Hit and Run with Vessel--Injury Accident  
29 (RCW 79A.60.200(3))

30 Identity Theft 1 (RCW 9.35.020(2)(a))

31 Indecent Exposure to Person Under Age  
32 Fourteen (subsequent sex offense) (RCW  
33 9A.88.010)

34 Influencing Outcome of Sporting Event (RCW  
35 9A.82.070)

36 Knowingly Trafficking in Stolen Property  
37 (RCW 9A.82.050(2))

38 Malicious Harassment (RCW 9A.36.080)



1           Malicious intimidation or harassment with  
2           an imitation, fake, or hoax chemical,  
3           biological, explosive, incendiary,  
4           flammable, or radiological substance  
5           or device 2 (section 10(2) of this  
6           act)  
7           Manufacture, deliver, or possess with  
8           intent to deliver narcotics from  
9           Schedule III, IV, or V or nonnarcotics  
10          from Schedule I-V (except marijuana,  
11          amphetamine, methamphetamines, or  
12          flunitrazepam) (RCW 69.50.401(a)(1)  
13          (iii) through (v))  
14          Residential Burglary (RCW 9A.52.025)  
15          Robbery 2 (RCW 9A.56.210)  
16          Theft of Livestock 1 (RCW 9A.56.080)  
17          (~~Threats to Bomb (RCW 9.61.160)~~)  
18          Use of Proceeds of Criminal Profiteering  
19          (RCW 9A.82.080 (1) and (2))  
20          Vehicular Assault, by being under the  
21          influence of intoxicating liquor or  
22          any drug, or by the operation or  
23          driving of a vehicle in a reckless  
24          manner (RCW 46.61.522)  
25          Willful Failure to Return from Furlough  
26          (RCW 72.66.060)  
  
27          III          Abandonment of dependent person 2 (RCW  
28                      9A.42.070)  
29          Assault 3 (RCW 9A.36.031)  
30          Assault of a Child 3 (RCW 9A.36.140)  
31          Bail Jumping with class B or C Felony (RCW  
32                      9A.76.170(3)(c))  
33          Burglary 2 (RCW 9A.52.030)  
34          Communication with a Minor for Immoral  
35                      Purposes (RCW 9.68A.090)  
36          Criminal Gang Intimidation (RCW 9A.46.120)  
37          Criminal Mistreatment 2 (RCW 9A.42.030)  
38          Custodial Assault (RCW 9A.36.100)

1 Delivery of a material in lieu of a  
2 controlled substance (RCW  
3 69.50.401(c))  
4 Escape 2 (RCW 9A.76.120)  
5 Extortion 2 (RCW 9A.56.130)  
6 Harassment (RCW 9A.46.020)  
7 Intimidating a Public Servant (RCW  
8 9A.76.180)  
9 Introducing Contraband 2 (RCW 9A.76.150)  
10 Maintaining a Dwelling or Place for  
11 Controlled Substances (RCW  
12 69.50.402(a)(6))  
13 Malicious Injury to Railroad Property (RCW  
14 81.60.070)  
15 Manufacture, deliver, or possess with  
16 intent to deliver marijuana (RCW  
17 69.50.401(a)(1)(iii))  
18 Manufacture, distribute, or possess with  
19 intent to distribute an imitation  
20 controlled substance (RCW  
21 69.52.030(1))  
22 Patronizing a Juvenile Prostitute (RCW  
23 9.68A.100)  
24 Perjury 2 (RCW 9A.72.030)  
25 Possession of Incendiary Device (RCW  
26 9.40.120)  
27 Possession of Machine Gun or Short-Barreled  
28 Shotgun or Rifle (RCW 9.41.190)  
29 Promoting Prostitution 2 (RCW 9A.88.080)  
30 Recklessly Trafficking in Stolen Property  
31 (RCW 9A.82.050(1))  
32 Securities Act violation (RCW 21.20.400)  
33 Tampering with a Witness (RCW 9A.72.120)  
34 Telephone Harassment (subsequent conviction  
35 or threat of death) (RCW 9.61.230)  
36 Theft of Livestock 2 (RCW 9A.56.080)  
37 Unlawful Imprisonment (RCW 9A.40.040)  
38 Unlawful possession of firearm in the  
39 second degree (RCW 9.41.040(1)(b))

1 Unlawful Use of Building for Drug Purposes  
2 (RCW 69.53.010)  
3 Vehicular Assault, by the operation or  
4 driving of a vehicle with disregard  
5 for the safety of others (RCW  
6 46.61.522)  
7 Willful Failure to Return from Work Release  
8 (RCW 72.65.070)  
9 II Computer Trespass 1 (RCW 9A.52.110)  
10 Counterfeiting (RCW 9.16.035(3))  
11 Create, deliver, or possess a counterfeit  
12 controlled substance (RCW  
13 69.50.401(b))  
14 Escape from Community Custody (RCW  
15 72.09.310)  
16 Health Care False Claims (RCW 48.80.030)  
17 Identity Theft 2 (RCW 9.35.020(2)(b))  
18 Improperly Obtaining Financial Information  
19 (RCW 9.35.010)  
20 Malicious Mischief 1 (RCW 9A.48.070)  
21 Possession of controlled substance that is  
22 either heroin or narcotics from  
23 Schedule I or II or flunitrazepam from  
24 Schedule IV (RCW 69.50.401(d))  
25 Possession of phencyclidine (PCP) (RCW  
26 69.50.401(d))  
27 Possession of Stolen Property 1 (RCW  
28 9A.56.150)  
29 Theft 1 (RCW 9A.56.030)  
30 Theft of Rental, Leased, or Lease-purchased  
31 Property (valued at one thousand five  
32 hundred dollars or more) (RCW  
33 9A.56.096(4))  
34 Trafficking in Insurance Claims (RCW  
35 48.30A.015)  
36 Unlawful Practice of Law (RCW 2.48.180)  
37 Unlicensed Practice of a Profession or  
38 Business (RCW 18.130.190(7))

1 I Attempting to Elude a Pursuing Police  
 2 Vehicle (RCW 46.61.024)  
 3 False Verification for Welfare (RCW  
 4 74.08.055)  
 5 Forged Prescription (RCW 69.41.020)  
 6 Forged Prescription for a Controlled  
 7 Substance (RCW 69.50.403)  
 8 Forgery (RCW 9A.60.020)  
 9 Malicious Mischief 2 (RCW 9A.48.080)  
 10 Possess Controlled Substance that is a  
 11 Narcotic from Schedule III, IV, or V  
 12 or Non-narcotic from Schedule I-V  
 13 (except phencyclidine or  
 14 flunitrazepam) (RCW 69.50.401(d))  
 15 Possession of Stolen Property 2 (RCW  
 16 9A.56.160)  
 17 Reckless Burning 1 (RCW 9A.48.040)  
 18 Taking Motor Vehicle Without Permission  
 19 (RCW 9A.56.070)  
 20 Theft 2 (RCW 9A.56.040)  
 21 Theft of Rental, Leased, or Lease-purchased  
 22 Property (valued at two hundred fifty  
 23 dollars or more but less than one  
 24 thousand five hundred dollars) (RCW  
 25 9A.56.096(4))  
 26 Unlawful Issuance of Checks or Drafts (RCW  
 27 9A.56.060)  
 28 Unlawful Use of Food Stamps (RCW 9.91.140  
 29 (2) and (3))  
 30 Vehicle Prowl 1 (RCW 9A.52.095)

31 **Sec. 18.** RCW 13.40.0357 and 2001 c 217 s 13 are each amended to  
 32 read as follows:

33 **DESCRIPTION AND OFFENSE CATEGORY**

34	JUVENILE	JUVENILE DISPOSITION
35	DISPOSITION	CATEGORY FOR ATTEMPT,
36	OFFENSE	BAILJUMP, CONSPIRACY,
37	CATEGORY DESCRIPTION (RCW CITATION)	OR SOLICITATION
38	.....	

1		<b>Arson and Malicious Mischief</b>	
2	A	Arson 1 (9A.48.020)	B+
3	B	Arson 2 (9A.48.030)	C
4	C	Reckless Burning 1 (9A.48.040)	D
5	D	Reckless Burning 2 (9A.48.050)	E
6	B	Malicious Mischief 1 (9A.48.070)	C
7	C	Malicious Mischief 2 (9A.48.080)	D
8	D	Malicious Mischief 3 (<\$50 is	
9		E class) (9A.48.090)	E
10	E	Tampering with Fire Alarm	
11		Apparatus (9.40.100)	E
12	A	Possession of Incendiary Device	
13		(9.40.120)	B+
14		<b>Assault and Other Crimes</b>	
15		<b>Involving Physical Harm</b>	
16	A	Assault 1 (9A.36.011)	B+
17	B+	Assault 2 (9A.36.021)	C+
18	C+	Assault 3 (9A.36.031)	D+
19	D+	Assault 4 (9A.36.041)	E
20	B+	Drive-By Shooting	
21		(9A.36.045)	C+
22	D+	Reckless Endangerment	
23		(9A.36.050)	E
24	C+	Promoting Suicide Attempt	
25		(9A.36.060)	D+
26	D+	Coercion (9A.36.070)	E
27	C+	Custodial Assault (9A.36.100)	D+
28		<b>Burglary and Trespass</b>	
29	B+	Burglary 1 (9A.52.020)	C+
30	B	Residential Burglary	
31		(9A.52.025)	C
32	B	Burglary 2 (9A.52.030)	C
33	D	Burglary Tools (Possession of)	
34		(9A.52.060)	E
35	D	Criminal Trespass 1 (9A.52.070)	E
36	E	Criminal Trespass 2 (9A.52.080)	E
37	C	Vehicle Prowling 1 (9A.52.095)	D
38	D	Vehicle Prowling 2 (9A.52.100)	E

**Drugs**

1			
2	E	Possession/Consumption of Alcohol	
3		(66.44.270)	E
4	C	Illegally Obtaining Legend Drug	
5		(69.41.020)	D
6	C+	Sale, Delivery, Possession of Legend	
7		Drug with Intent to Sell	
8		(69.41.030)	D+
9	E	Possession of Legend Drug	
10		(69.41.030)	E
11	B+	Violation of Uniform Controlled	
12		Substances Act - Narcotic,	
13		Methamphetamine, or Flunitrazepam	
14		Sale (69.50.401(a)(1) (i) or (ii))	B+
15	C	Violation of Uniform Controlled	
16		Substances Act - Nonnarcotic Sale	
17		(69.50.401(a)(1)(iii))	C
18	E	Possession of Marihuana <40 grams	
19		(69.50.401(e))	E
20	C	Fraudulently Obtaining Controlled	
21		Substance (69.50.403)	C
22	C+	Sale of Controlled Substance	
23		for Profit (69.50.410)	C+
24	E	Unlawful Inhalation (9.47A.020)	E
25	B	Violation of Uniform Controlled	
26		Substances Act - Narcotic,	
27		Methamphetamine, or Flunitrazepam	
28		Counterfeit Substances	
29		(69.50.401(b)(1) (i) or (ii))	B
30	C	Violation of Uniform Controlled	
31		Substances Act - Nonnarcotic	
32		Counterfeit Substances	
33		(69.50.401(b)(1) (iii), (iv), (v))	C
34	C	Violation of Uniform Controlled	
35		Substances Act - Possession of a	
36		Controlled Substance	
37		(69.50.401(d))	C
38	C	Violation of Uniform Controlled	
39		Substances Act - Possession of a	

1		Controlled Substance	
2		(69.50.401(c))	C
3		<b>Firearms and Weapons</b>	
4	B	Theft of Firearm (9A.56.300)	C
5	B	Possession of Stolen Firearm	
6		(9A.56.310)	C
7	E	Carrying Loaded Pistol Without	
8		Permit (9.41.050)	E
9	C	Possession of Firearms by Minor (<18)	
10		(9.41.040(1)(b)(iii))	C
11	D+	Possession of Dangerous Weapon	
12		(9.41.250)	E
13	D	Intimidating Another Person by use	
14		of Weapon (9.41.270)	E
15		<b>Homicide</b>	
16	A+	Murder 1 (9A.32.030)	A
17	A+	Murder 2 (9A.32.050)	B+
18	B+	Manslaughter 1 (9A.32.060)	C+
19	C+	Manslaughter 2 (9A.32.070)	D+
20	B+	Vehicular Homicide (46.61.520)	C+
21		<b>Kidnapping</b>	
22	A	Kidnap 1 (9A.40.020)	B+
23	B+	Kidnap 2 (9A.40.030)	C+
24	C+	Unlawful Imprisonment	
25		(9A.40.040)	D+
26		<b>Obstructing Governmental Operation</b>	
27	D	Obstructing a Law Enforcement	
28		Officer (9A.76.020)	E
29	E	Resisting Arrest (9A.76.040)	E
30	B	Introducing Contraband 1	
31		(9A.76.140)	C
32	C	Introducing Contraband 2	
33		(9A.76.150)	D
34	E	Introducing Contraband 3	
35		(9A.76.160)	E
36	B+	Intimidating a Public Servant	
37		(9A.76.180)	C+

1	B+	Intimidating a Witness	
2		(9A.72.110)	C+
3		<b>Public Disturbance</b>	
4	C+	Riot with Weapon (9A.84.010)	D+
5	D+	Riot Without Weapon	
6		(9A.84.010)	E
7	E	Failure to Disperse (9A.84.020)	E
8	E	Disorderly Conduct (9A.84.030)	E
9		<b>Sex Crimes</b>	
10	A	Rape 1 (9A.44.040)	B+
11	A-	Rape 2 (9A.44.050)	B+
12	C+	Rape 3 (9A.44.060)	D+
13	A-	Rape of a Child 1 (9A.44.073)	B+
14	B+	Rape of a Child 2 (9A.44.076)	C+
15	B	Incest 1 (9A.64.020(1))	C
16	C	Incest 2 (9A.64.020(2))	D
17	D+	Indecent Exposure	
18		(Victim <14) (9A.88.010)	E
19	E	Indecent Exposure	
20		(Victim 14 or over) (9A.88.010)	E
21	B+	Promoting Prostitution 1	
22		(9A.88.070)	C+
23	C+	Promoting Prostitution 2	
24		(9A.88.080)	D+
25	E	O & A (Prostitution) (9A.88.030)	E
26	B+	Indecent Liberties (9A.44.100)	C+
27	A-	Child Molestation 1 (9A.44.083)	B+
28	B	Child Molestation 2 (9A.44.086)	C+
29		<b>Theft, Robbery, Extortion, and Forgery</b>	
30	B	Theft 1 (9A.56.030)	C
31	C	Theft 2 (9A.56.040)	D
32	D	Theft 3 (9A.56.050)	E
33	B	Theft of Livestock (9A.56.080)	C
34	C	Forgery (9A.60.020)	D
35	A	Robbery 1 (9A.56.200)	B+
36	B+	Robbery 2 (9A.56.210)	C+
37	B+	Extortion 1 (9A.56.120)	C+
38	C+	Extortion 2 (9A.56.130)	D+



1	C	Identity Theft 1 (9.35.020(2)(a))	D
2	D	Identity Theft 2 (9.35.020(2)(b))	E
3	D	Improperly Obtaining Financial	
4		Information ( <del>((9.35.010))</del> )	
5		<u>(9.35.010)</u>	E
6	B	Possession of Stolen Property 1	
7		(9A.56.150)	C
8	C	Possession of Stolen Property 2	
9		(9A.56.160)	D
10	D	Possession of Stolen Property 3	
11		(9A.56.170)	E
12	C	Taking Motor Vehicle Without	
13		Owner's Permission (9A.56.070)	D
14		<b>Motor Vehicle Related Crimes</b>	
15	E	Driving Without a License	
16		(46.20.005)	E
17	B+	Hit and Run - Death	
18		(46.52.020(4)(a))	C+
19	C	Hit and Run - Injury	
20		(46.52.020(4)(b))	D
21	D	Hit and Run-Attended	
22		(46.52.020(5))	E
23	E	Hit and Run-Unattended	
24		(46.52.010)	E
25	C	Vehicular Assault (46.61.522)	D
26	C	Attempting to Elude Pursuing	
27		Police Vehicle (46.61.024)	D
28	E	Reckless Driving (46.61.500)	E
29	D	Driving While Under the Influence	
30		(46.61.502 and 46.61.504)	E
31		<b>Other</b>	
32	B	<del>((Bomb Threat (9.61.160)))</del>	
33		<u>Threat to use device (section</u>	
34		<u>11 of this act)</u>	C
35	C	Escape 1 (9A.76.110)	C
36	C	Escape 2 (9A.76.120)	C
37	D	Escape 3 (9A.76.130)	E

1	E	Obscene, Harassing, Etc.,	
2		Phone Calls (9.61.230)	E
3	A	Other Offense Equivalent to an	
4		Adult Class A Felony	B+
5	B	Other Offense Equivalent to an	
6		Adult Class B Felony	C
7	C	Other Offense Equivalent to an	
8		Adult Class C Felony	D
9	D	Other Offense Equivalent to an	
10		Adult Gross Misdemeanor	E
11	E	Other Offense Equivalent to an	
12		Adult Misdemeanor	E
13	V	Violation of Order of Restitution,	
14		Community Supervision, or	
15		Confinement (13.40.200)	V

16 Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
17 and the standard range is established as follows:

18 1st escape or attempted escape during 12-month period - 4 weeks  
19 confinement

20 2nd escape or attempted escape during 12-month period - 8 weeks  
21 confinement

22 3rd and subsequent escape or attempted escape during 12-month  
23 period - 12 weeks confinement

24 If the court finds that a respondent has violated terms of an order,  
25 it may impose a penalty of up to 30 days of confinement.

26 **JUVENILE SENTENCING STANDARDS**

27 This schedule must be used for juvenile offenders. The court may  
28 select sentencing option A, B, or C.

**OPTION A**  
**JUVENILE OFFENDER SENTENCING GRID**  
**STANDARD RANGE**

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Current Offense Category	0	1	2	3	4 or more
A+	180 WEEKS TO AGE 21 YEARS				
A	103 WEEKS TO 129 WEEKS				
A-	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
	EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS				
B+	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
B	LOCAL SANCTIONS (LS)	15-36 WEEKS	52-65 WEEKS		
C+	LS		15-36 WEEKS		
C	LS		15-36 WEEKS		
		Local Sanctions: 0 to 30 Days			
D+	LS	0 to 12 Months Community Supervision 0 to 150 Hours Community Service			
D	LS	\$0 to \$500 Fine			
E	LS				
	0	1	2	3	4 or more

36 NOTE: References in the grid to days or weeks mean periods of  
37 confinement.

38 (1) The vertical axis of the grid is the current offense category.  
39 The current offense category is determined by the offense of  
40 adjudication.

41 (2) The horizontal axis of the grid is the number of prior  
42 adjudications included in the juvenile's criminal history. Each prior  
43 felony adjudication shall count as one point. Each prior violation,

1 misdemeanor, and gross misdemeanor adjudication shall count as 1/4  
2 point. Fractional points shall be rounded down.

3 (3) The standard range disposition for each offense is determined  
4 by the intersection of the column defined by the prior adjudications  
5 and the row defined by the current offense category.

6 (4) RCW 13.40.180 applies if the offender is being sentenced for  
7 more than one offense.

8 (5) A current offense that is a violation is equivalent to an  
9 offense category of E. However, a disposition for a violation shall  
10 not include confinement.

11 OR

12 OPTION B

13 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

14 If the juvenile offender is subject to a standard range disposition  
15 of local sanctions or 15 to 36 weeks of confinement and has not  
16 committed an A- or B+ offense, the court may impose a disposition under  
17 RCW 13.40.160(4) and 13.40.165.

18 OR

19 OPTION C

20 MANIFEST INJUSTICE

21 If the court determines that a disposition under option A or B would  
22 effectuate a manifest injustice, the court shall impose a disposition  
23 outside the standard range under RCW 13.40.160(2).

24 **Sec. 19.** RCW 42.17.310 and 2001 c 278 s 1, 2001 c 98 s 2, and 2001  
25 c 70 s 1 are each reenacted and amended to read as follows:

26 (1) The following are exempt from public inspection and copying:

27 (a) Personal information in any files maintained for students in  
28 public schools, patients or clients of public institutions or public  
29 health agencies, or welfare recipients.

30 (b) Personal information in files maintained for employees,  
31 appointees, or elected officials of any public agency to the extent  
32 that disclosure would violate their right to privacy.

33 (c) Information required of any taxpayer in connection with the  
34 assessment or collection of any tax if the disclosure of the  
35 information to other persons would (i) be prohibited to such persons by

1 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
2 taxpayer's right to privacy or result in unfair competitive  
3 disadvantage to the taxpayer.

4 (d) Specific intelligence information and specific investigative  
5 records compiled by investigative, law enforcement, and penology  
6 agencies, and state agencies vested with the responsibility to  
7 discipline members of any profession, the nondisclosure of which is  
8 essential to effective law enforcement or for the protection of any  
9 person's right to privacy.

10 (e) Information revealing the identity of persons who are witnesses  
11 to or victims of crime or who file complaints with investigative, law  
12 enforcement, or penology agencies, other than the public disclosure  
13 commission, if disclosure would endanger any person's life, physical  
14 safety, or property. If at the time a complaint is filed the  
15 complainant, victim or witness indicates a desire for disclosure or  
16 nondisclosure, such desire shall govern. However, all complaints filed  
17 with the public disclosure commission about any elected official or  
18 candidate for public office must be made in writing and signed by the  
19 complainant under oath.

20 (f) Test questions, scoring keys, and other examination data used  
21 to administer a license, employment, or academic examination.

22 (g) Except as provided by chapter 8.26 RCW, the contents of real  
23 estate appraisals, made for or by any agency relative to the  
24 acquisition or sale of property, until the project or prospective sale  
25 is abandoned or until such time as all of the property has been  
26 acquired or the property to which the sale appraisal relates is sold,  
27 but in no event shall disclosure be denied for more than three years  
28 after the appraisal.

29 (h) Valuable formulae, designs, drawings, computer source code or  
30 object code, and research data obtained by any agency within five years  
31 of the request for disclosure when disclosure would produce private  
32 gain and public loss.

33 (i) Preliminary drafts, notes, recommendations, and intra-agency  
34 memorandums in which opinions are expressed or policies formulated or  
35 recommended except that a specific record shall not be exempt when  
36 publicly cited by an agency in connection with any agency action.

37 (j) Records which are relevant to a controversy to which an agency  
38 is a party but which records would not be available to another party

1 under the rules of pretrial discovery for causes pending in the  
2 superior courts.

3 (k) Records, maps, or other information identifying the location of  
4 archaeological sites in order to avoid the looting or depredation of  
5 such sites.

6 (l) Any library record, the primary purpose of which is to maintain  
7 control of library materials, or to gain access to information, which  
8 discloses or could be used to disclose the identity of a library user.

9 (m) Financial information supplied by or on behalf of a person,  
10 firm, or corporation for the purpose of qualifying to submit a bid or  
11 proposal for (i) a ferry system construction or repair contract as  
12 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
13 construction or improvement as required by RCW 47.28.070.

14 (n) Railroad company contracts filed prior to July 28, 1991, with  
15 the utilities and transportation commission under RCW 81.34.070, except  
16 that the summaries of the contracts are open to public inspection and  
17 copying as otherwise provided by this chapter.

18 (o) Financial and commercial information and records supplied by  
19 private persons pertaining to export services provided pursuant to  
20 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
21 export projects pursuant to RCW 43.23.035.

22 (p) Financial disclosures filed by private vocational schools under  
23 chapters 28B.85 and 28C.10 RCW.

24 (q) Records filed with the utilities and transportation commission  
25 or attorney general under RCW 80.04.095 that a court has determined are  
26 confidential under RCW 80.04.095.

27 (r) Financial and commercial information and records supplied by  
28 businesses or individuals during application for loans or program  
29 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
30 or during application for economic development loans or program  
31 services provided by any local agency.

32 (s) Membership lists or lists of members or owners of interests of  
33 units in timeshare projects, subdivisions, camping resorts,  
34 condominiums, land developments, or common-interest communities  
35 affiliated with such projects, regulated by the department of  
36 licensing, in the files or possession of the department.

37 (t) All applications for public employment, including the names of  
38 applicants, resumes, and other related materials submitted with respect  
39 to an applicant.

1 (u) The residential addresses or residential telephone numbers of  
2 employees or volunteers of a public agency which are held by any public  
3 agency in personnel records, public employment related records, or  
4 volunteer rosters, or are included in any mailing list of employees or  
5 volunteers of any public agency.

6 (v) The residential addresses and residential telephone numbers of  
7 the customers of a public utility contained in the records or lists  
8 held by the public utility of which they are customers, except that  
9 this information may be released to the division of child support or  
10 the agency or firm providing child support enforcement for another  
11 state under Title IV-D of the federal social security act, for the  
12 establishment, enforcement, or modification of a support order.

13 (w)(i) The federal social security number of individuals governed  
14 under chapter 18.130 RCW maintained in the files of the department of  
15 health, except this exemption does not apply to requests made directly  
16 to the department from federal, state, and local agencies of  
17 government, and national and state licensing, credentialing,  
18 investigatory, disciplinary, and examination organizations; (ii) the  
19 current residential address and current residential telephone number of  
20 a health care provider governed under chapter 18.130 RCW maintained in  
21 the files of the department, if the provider requests that this  
22 information be withheld from public inspection and copying, and  
23 provides to the department an accurate alternate or business address  
24 and business telephone number. On or after January 1, 1995, the  
25 current residential address and residential telephone number of a  
26 health care provider governed under RCW 18.130.040 maintained in the  
27 files of the department shall automatically be withheld from public  
28 inspection and copying unless the provider specifically requests the  
29 information be released, and except as provided for under RCW  
30 42.17.260(9).

31 (x) Information obtained by the board of pharmacy as provided in  
32 RCW 69.45.090.

33 (y) Information obtained by the board of pharmacy or the department  
34 of health and its representatives as provided in RCW 69.41.044,  
35 69.41.280, and 18.64.420.

36 (z) Financial information, business plans, examination reports, and  
37 any information produced or obtained in evaluating or examining a  
38 business and industrial development corporation organized or seeking  
39 certification under chapter 31.24 RCW.

1 (aa) Financial and commercial information supplied to the state  
2 investment board by any person when the information relates to the  
3 investment of public trust or retirement funds and when disclosure  
4 would result in loss to such funds or in private loss to the providers  
5 of this information.

6 (bb) Financial and valuable trade information under RCW 51.36.120.

7 (cc) Client records maintained by an agency that is a domestic  
8 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
9 crisis center as defined in RCW 70.125.030.

10 (dd) Information that identifies a person who, while an agency  
11 employee: (i) Seeks advice, under an informal process established by  
12 the employing agency, in order to ascertain his or her rights in  
13 connection with a possible unfair practice under chapter 49.60 RCW  
14 against the person; and (ii) requests his or her identity or any  
15 identifying information not be disclosed.

16 (ee) Investigative records compiled by an employing agency  
17 conducting a current investigation of a possible unfair practice under  
18 chapter 49.60 RCW or of a possible violation of other federal, state,  
19 or local laws prohibiting discrimination in employment.

20 (ff) Business related information protected from public inspection  
21 and copying under RCW 15.86.110.

22 (gg) Financial, commercial, operations, and technical and research  
23 information and data submitted to or obtained by the clean Washington  
24 center in applications for, or delivery of, program services under  
25 chapter 70.95H RCW.

26 (hh) Information and documents created specifically for, and  
27 collected and maintained by a quality improvement committee pursuant to  
28 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW  
29 4.24.250, regardless of which agency is in possession of the  
30 information and documents.

31 (ii) Personal information in files maintained in a data base  
32 created under RCW 43.07.360.

33 (jj) Financial and commercial information requested by the public  
34 stadium authority from any person or organization that leases or uses  
35 the stadium and exhibition center as defined in RCW 36.102.010.

36 (kk) Names of individuals residing in emergency or transitional  
37 housing that are furnished to the department of revenue or a county  
38 assessor in order to substantiate a claim for property tax exemption  
39 under RCW 84.36.043.



1 (ll) The names, residential addresses, residential telephone  
2 numbers, and other individually identifiable records held by an agency  
3 in relation to a vanpool, carpool, or other ride-sharing program or  
4 service. However, these records may be disclosed to other persons who  
5 apply for ride-matching services and who need that information in order  
6 to identify potential riders or drivers with whom to share rides.

7 (mm) The personally identifying information of current or former  
8 participants or applicants in a paratransit or other transit service  
9 operated for the benefit of persons with disabilities or elderly  
10 persons.

11 (nn) The personally identifying information of persons who acquire  
12 and use transit passes and other fare payment media including, but not  
13 limited to, stored value smart cards and magnetic strip cards, except  
14 that an agency may disclose this information to a person, employer,  
15 educational institution, or other entity that is responsible, in whole  
16 or in part, for payment of the cost of acquiring or using a transit  
17 pass or other fare payment media, or to the news media when reporting  
18 on public transportation or public safety. This information may also  
19 be disclosed at the agency's discretion to governmental agencies or  
20 groups concerned with public transportation or public safety.

21 (oo) Proprietary financial and commercial information that the  
22 submitting entity, with review by the department of health,  
23 specifically identifies at the time it is submitted and that is  
24 provided to or obtained by the department of health in connection with  
25 an application for, or the supervision of, an antitrust exemption  
26 sought by the submitting entity under RCW 43.72.310. If a request for  
27 such information is received, the submitting entity must be notified of  
28 the request. Within ten business days of receipt of the notice, the  
29 submitting entity shall provide a written statement of the continuing  
30 need for confidentiality, which shall be provided to the requester.  
31 Upon receipt of such notice, the department of health shall continue to  
32 treat information designated under this section as exempt from  
33 disclosure. If the requester initiates an action to compel disclosure  
34 under this chapter, the submitting entity must be joined as a party to  
35 demonstrate the continuing need for confidentiality.

36 (pp) Records maintained by the board of industrial insurance  
37 appeals that are related to appeals of crime victims' compensation  
38 claims filed with the board under RCW 7.68.110.

1 (qq) Financial and commercial information supplied by or on behalf  
2 of a person, firm, corporation, or entity under chapter 28B.95 RCW  
3 relating to the purchase or sale of tuition units and contracts for the  
4 purchase of multiple tuition units.

5 (rr) Any records of investigative reports prepared by any state,  
6 county, municipal, or other law enforcement agency pertaining to sex  
7 offenses contained in chapter 9A.44 RCW or sexually violent offenses as  
8 defined in RCW 71.09.020, which have been transferred to the Washington  
9 association of sheriffs and police chiefs for permanent electronic  
10 retention and retrieval pursuant to RCW 40.14.070(2)(b).

11 (ss) Credit card numbers, debit card numbers, electronic check  
12 numbers, card expiration dates, or bank or other financial account  
13 numbers supplied to an agency for the purpose of electronic transfer of  
14 funds, except when disclosure is expressly required by law.

15 (tt) Financial information, including but not limited to account  
16 numbers and values, and other identification numbers supplied by or on  
17 behalf of a person, firm, corporation, limited liability company,  
18 partnership, or other entity related to an application for a liquor  
19 license, gambling license, or lottery retail license.

20 (uu) Records maintained by the employment security department and  
21 subject to chapter 50.13 RCW if provided to another individual or  
22 organization for operational, research, or evaluation purposes.

23 (vv) Individually identifiable information received by the work  
24 force training and education coordinating board for research or  
25 evaluation purposes.

26 (ww) Those portions of records containing specific and unique  
27 vulnerability assessments or specific and unique response plans, either  
28 of which is intended to prevent or mitigate criminal terrorist acts as  
29 defined in ((RCW—70.74.285)) section 3 of this act, the public  
30 disclosure of which would have a substantial likelihood of threatening  
31 public safety.

32 (xx) Commercial fishing catch data from logbooks required to be  
33 provided to the department of fish and wildlife under RCW 77.12.047,  
34 when the data identifies specific catch location, timing, or  
35 methodology and the release of which would result in unfair competitive  
36 disadvantage to the commercial fisher providing the catch data.  
37 However, this information may be released to government agencies  
38 concerned with the management of fish and wildlife resources.

1 (yy) Sensitive wildlife data obtained by the department of fish and  
2 wildlife. However, sensitive wildlife data may be released to  
3 government agencies concerned with the management of fish and wildlife  
4 resources. Sensitive wildlife data includes:

5 (i) The nesting sites or specific locations of endangered species  
6 designated under RCW 77.12.020, or threatened or sensitive species  
7 classified by rule of the department of fish and wildlife;

8 (ii) Radio frequencies used in, or locational data generated by,  
9 telemetry studies; or

10 (iii) Other location data that could compromise the viability of a  
11 specific fish or wildlife population, and where at least one of the  
12 following criteria are met:

13 (A) The species has a known commercial or black market value;

14 (B) There is a history of malicious take of that species; or

15 (C) There is a known demand to visit, take, or disturb, and the  
16 species behavior or ecology renders it especially vulnerable or the  
17 species has an extremely limited distribution and concentration.

18 (zz) The personally identifying information of persons who acquire  
19 recreational licenses under RCW 77.32.010 or commercial licenses under  
20 chapter 77.65 or 77.70 RCW, except name, address of contact used by the  
21 department, and type of license, endorsement, or tag. However, the  
22 department of fish and wildlife may disclose personally identifying  
23 information to:

24 (i) Government agencies concerned with the management of fish and  
25 wildlife resources;

26 (ii) The department of social and health services, child support  
27 division, and to the department of licensing in order to implement RCW  
28 77.32.014 and 46.20.291; and

29 (iii) Law enforcement agencies for the purpose of firearm  
30 possession enforcement under RCW 9.41.040.

31 (2) Except for information described in subsection (1)(c)(i) of  
32 this section and confidential income data exempted from public  
33 inspection pursuant to RCW 84.40.020, the exemptions of this section  
34 are inapplicable to the extent that information, the disclosure of  
35 which would violate personal privacy or vital governmental interests,  
36 can be deleted from the specific records sought. No exemption may be  
37 construed to permit the nondisclosure of statistical information not  
38 descriptive of any readily identifiable person or persons.

1 (3) Inspection or copying of any specific records exempt under the  
2 provisions of this section may be permitted if the superior court in  
3 the county in which the record is maintained finds, after a hearing  
4 with notice thereof to every person in interest and the agency, that  
5 the exemption of such records is clearly unnecessary to protect any  
6 individual's right of privacy or any vital governmental function.

7 (4) Agency responses refusing, in whole or in part, inspection of  
8 any public record shall include a statement of the specific exemption  
9 authorizing the withholding of the record (or part) and a brief  
10 explanation of how the exemption applies to the record withheld.

11 NEW SECTION. **Sec. 20.** Sections 1 through 13, 21, 22, and 24 of  
12 this act constitute a new chapter in Title 9A RCW.

13 NEW SECTION. **Sec. 21.** PROVISIONS CUMULATIVE. This chapter shall  
14 not be construed to repeal or amend any existing penal statute.

15 NEW SECTION. **Sec. 22.** CONSTITUTIONAL RIGHTS--CENSORSHIP OR  
16 INFRINGEMENT. Nothing in this chapter shall be construed to authorize,  
17 require, or establish censorship or in any way limit or infringe upon  
18 freedom of the press or freedom of speech within the meaning and the  
19 manner as guaranteed by the Constitution of the United States or of the  
20 state of Washington and no rule shall be adopted hereunder having that  
21 effect.

22 NEW SECTION. **Sec. 23.** The following acts or parts of acts are  
23 each repealed:

24 (1) RCW 9.61.160 (Threats to bomb or injure property) and 1977  
25 ex.s. c 231 s 1 & 1959 c 141 s 1;

26 (2) RCW 9.61.170 (Threats to bomb or injure property--Hoax no  
27 defense) and 1959 c 141 s 2;

28 (3) RCW 9.61.180 (Threats to bomb or injure property--Penalty) and  
29 1977 ex.s. c 231 s 2 & 1959 c 141 s 3;

30 (4) RCW 70.74.270 (Malicious placement of an explosive--Penalties)  
31 and 1997 c 120 s 1, 1993 c 293 s 6, 1992 c 7 s 49, 1984 c 55 s 2, 1971  
32 ex.s. c 302 s 8, 1969 ex.s. c 137 s 23, & 1909 c 249 s 400;

33 (5) RCW 70.74.272 (Malicious placement of an imitation device--  
34 Penalties) and 1997 c 120 s 2;

1 (6) RCW 70.74.275 (Intimidation or harassment with an explosive--  
2 Class C felony) and 1993 c 293 s 4;

3 (7) RCW 70.74.280 (Malicious explosion of a substance--Penalties)  
4 and 1997 c 120 s 3, 1992 c 7 s 50, 1971 ex.s. c 302 s 9, 1969 ex.s. c  
5 137 s 24, & 1909 c 249 s 401; and

6 (8) RCW 70.74.285 ("Terrorist act" defined) and 1997 c 120 s 4.

7 NEW SECTION. **Sec. 24.** CAPTIONS NOT LAW. Captions used in this  
8 chapter are not any part of the law.

9 NEW SECTION. **Sec. 25.** If any provision of this act or its  
10 application to any person or circumstance is held invalid, the  
11 remainder of the act or the application of the provision to other  
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 26.** This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of the  
15 state government and its existing public institutions, and takes effect  
16 immediately.

--- END ---